IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION No. 1367 (S/S) OF 2005
(Urgency Application No. 2620 of 2006)

Pushkar Singh Gusain S/o Late Sri Madan Singh Guasin
Vill. Pursol Gaon Maniyar, P.O. Chamba
District- Tehri Garhwal. .....Petitioner

Versus

1.The State of Government through the Secretary Public Works Department, Dehradun.
2.Superintneding Engineer, Public Works Department, Tehri.
3.Executive Engineer, Public Works Department, Tehri.

..... Respondents

09.03.2006

Sri Gopal Narain, learned counsel for the petitioner.
Learned standing counsel for the respondents.

Hon'ble Rajesh Tandon, J.

Heard Sri Gopal Naraina, Learned Counsel for the petitioner and Standing Counsel for the respondents.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to pass an appropriate order for appointment of the petitioner under Dying In Harness Rules.

Briefly stated the father of the petitioner Madan Singh Gusain was a permanent employee in the Public Works Deprtment on the post of Beldar. During the service, all of a sudden, the father of the petitioner expired on 12.02.1984 and just after seven days his mother was also expired. After attaining the age 18 years in the year 1998 he moved an application on 03.01.1998 before the respondents under Dying In Harness Rules. The petitioner has sent several reminders to the respondent to give the employment under the Harness Rules but of no avail.

Standing Counsel has filed counter affidavit stating therein that after a lapse of 13 years, the petitioner has sent an application on compassionate appointment under Dying In Harness Rules to the Executive Engineer, Provincial Division, PWD, New Tehri and has sought the relaxation of the age in service which was

by rejected by the Government vide letter dated 07.9.1998. Standing Counsel has also mentioned in para 9 (ii) of the Counter Affidavit that the U.P. Recruitment of Dependents of Government Servant Dying In Harness Rules, 1974 provides that any dependants of Government Servant may apply for the appointment within 5 years, but the petitioner has applied after a lapse of period about 13 years.

Learned Counsel for the petitioner has submitted that father of the petitioner died in the year 1998, after few days his mother also died as such the grievance of the petitioner that he is entitled for the relaxation in age.

In view of the above respondents are directed to consider the appointment on sympathetically ground considering that the father & mother both died. So far as the second prayer of the writ petition is concerned, the petitioner is directed to submit a fresh representation before the respondent and if any vacancy arises, the priority may be given to the petitioner.

Consequently, the first prayer of the petitioner for compassionate appointment can not be allowed after lapse of 13 years and therefore the prayer to that effect is rejected.

Consequently, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

09.03.2006

Jain